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16 **IN THE UNITED STATES DISTRICT COURT**  
 17 **FOR THE DISTRICT OF ARIZONA**

18 Nikola Corporation;

19 Case No. CV-24-00563-PHX-SHD

20 Plaintiff,

21 v.  
**DEFENDANTS' RULE 12(C)**  
**MOTION FOR JUDGMENT ON THE**  
**PLEADINGS**

22 Trevor R. Milton, et al.,

23 Defendant.

24 A creditor cannot reach marital community property to satisfy a separate obligation  
 25 incurred by either spouse after marriage. *State ex rel. Indus. Comm'n of Ariz. v. Wright*,  
 26 202 Ariz. 255, 257 ¶ 6 (App. 2002). Nikola alleged, and this Court ruled, that the stock at  
 27 issue in this case is the Miltons' community property. The Judgment is Mr. Milton's sole  
 28 and separate debt. Nikola therefore cannot reach the stock to satisfy the Judgment. Nikola  
 cannot maintain a fraudulent transfer claim against the transfer of assets it was never  
 entitled to. Because the facts as pled do not entitle Nikola to a remedy, the Miltons are  
 entitled to judgment on the pleadings as a matter of law.

1     **I.     Allegations accepted as true.**

2           Nikola initiated an arbitration proceeding against Mr. Milton alone. Doc. 46 at 5 ¶  
 3 10. Nikola obtained an Arbitration Award against Mr. Milton alone. *Id.* at 6 ¶ 15. This  
 4 Court confirmed the Arbitration Award and entered judgment against Mr. Milton alone  
 5 (the “Judgment”). *Id.* at 6 ¶ 16; *Nikola v. Milton*, No. CV-23-02635-PHX-DJH (D. Ariz.)  
 6 Doc. 35, 49.

7           Nikola did not name Ms. Milton as a party to: the arbitration proceedings, the  
 8 confirmation proceedings, or the Judgment confirming the Arbitration Award.

9           In furtherance of its attempt to collect on the Judgment, Nikola filed this lawsuit  
 10 against the Miltons alleging Mr. Milton fraudulently transferred shares of Nikola stock.  
 11 Doc. 46 at 1 ¶¶ 1-2 and 12 ¶¶ 28-37. When Ms. Milton moved to dismiss for lack of  
 12 personal jurisdiction and failure to state a claim upon which relief can be granted, Nikola  
 13 claimed the Court had personal jurisdiction over Ms. Milton and she was a necessary  
 14 defendant because the shares of Nikola stock were community property protected under  
 15 Arizona law. Doc. 69 at 6-7; *id.* at 6:20-21 (“Nikola’s AUFTA claim sounds in tort and is  
 16 based specifically on the fraudulent transfer of community property -- Nikola stock -- that  
 17 is subject to Arizona law.”).

18           The Court denied Ms. Milton’s motion to dismiss because the “Nikola’s evidence,  
 19 taken together and construed in a light most favorable to Nikola, sufficiently meets its  
 20 burden of establishing that Chelsey resided in Arizona and acquired property that became  
 21 community property,” *i.e.*, the shares of Nikola stock. Doc. 85 at 23; *id.* at 27 (“Nikola has  
 22 made a sufficient showing of jurisdictional facts that community property is implicated.”).

23     **II.     Nikola cannot reach community property to satisfy Mr. Milton’s separate debt.**

24           The Judgment is Mr. Milton’s separate debt. In Arizona, both spouses must be sued  
 25 jointly for a debt to be considered community debt. A.R.S. § 25-215(D). Nikola admits, as  
 26 it must, that it filed the arbitration and subsequent confirmation proceedings against *only*  
 27 Mr. Milton. Doc. 46 at 2 ¶¶ 1-2, 5 ¶ 10, 6 ¶ 16. Thus, under A.R.S. § 25-215(D), Nikola’s  
 28 failure to jointly sue the Miltons in arbitration means that the resulting Judgment against

1 Mr. Milton is his sole and separate debt. *See, e.g., Heinig v. Hudman*, 177 Ariz. 66, 70 (Ct.  
 2 App. 1993) (holding that judgment entered in arbitration could not be converted into  
 3 judgment against marital community).

4 The Nikola stock is (according to Nikola and this Court) the Miltos' community  
 5 property. For purposes of this Motion, the Court must accept as true that the subject of the  
 6 fraudulent transfer claim—the Nikola stock—is community property protected under  
 7 Arizona law. Although Ms. Milton previously denied Nikola's characterization of the  
 8 shares of Nikola stock as community property,<sup>1</sup> in deciding this Motion, this court "must  
 9 accept as true all of Plaintiff's allegations and may simply ignore Defendants' denials."  
 10 *Wolf Designs LLC v. Five 18 Designs LLC*, 635 F. Supp. 3d 787, 793 n.3 (D. Ariz. 2022)  
 11 (citing *Hoeft v. Tucson Unified School Dist.*, 967 F.2d 1298, 1301 n.2 (9th Cir. 1992)).

12 Because community property cannot satisfy an individual debt, the Nikola stock  
 13 cannot satisfy the Judgment. *State ex rel. Indus. Comm'n of Ariz.*, 202 Ariz. at 257 ¶ 6 (a  
 14 creditor cannot reach marital community property to satisfy a separate obligation incurred  
 15 by either spouse after marriage). Consequently, Nikola has no fraudulent transfer claim  
 16 against the transfer of assets that it was never entitled to. *See, e.g., GAF Corp. v. Diamond*  
 17 *Carpet Corp.*, 117 Ariz. 297, 300 (Ct. App. 1977) (denying plaintiff's fraudulent transfer  
 18 claim because the community property was never subject to levy and thus could be  
 19 transferred.); *see also SPQR Venture, Inc. v. Robertson*, 237 Ariz. 270, 273 (Ct. App. 2015)  
 20 (holding that the Uniform Fraudulent Transfer Act does not restrict the transfer of  
 21 community property not subject to garnishment.); A.R.S. § 44-1001(3) (A "creditor" under  
 22 a fraudulent transfer claim is "a person who has a claim.").

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25 <sup>1</sup> The Nikola stock was held by M&M Residual, LLC, a Nevada limited liability company  
 26 of which Mr. Milton is the manager and member. *See Amended Complaint ¶¶ 19-20*. M&M  
 27 has not been adjudicated Mr. Milton's alter ego. Therefore, even assuming the stock is not  
 28 community property, if the transfer is avoided and the stock reverts to M&M, Nikola still  
 cannot reach the stock to satisfy the Judgment because the stock is held by M&M, not Mr.  
 Milton.

1 Moreover, Nikola is time barred from initiating a separate action against Ms. Milton  
2 and the Miltons' community property under Arizona and Delaware's statutes of limitation.  
3 *See, e.g.*, 10 Del. C. § 8106(a) (applying a three-year statute of limitation for breach of  
4 fiduciary duty claims); *see also* A.R.S. § 12-542 (applying a two-year statute of limitation  
5 for breach of fiduciary duty claims). In the same vein, the Court should not grant Nikola  
6 leave to amend because Nikola cannot change the fact that Ms. Milton was not named as a  
7 party in the arbitration hearing or as a Judgment debtor, and Nikola has no claims against  
8 the Miltons' community property.

### III. Certification

0 Before filing this motion, undersigned counsel notified the opposing party of the  
1 issues asserted in the motion. The parties were unable to agree that the pleading was curable  
2 in any part by an amendment.

#### IV. Conclusion

4 Judgment should be granted in favor of the Miltons and against Plaintiff, Nikola  
5 Corporation. No leave to amend should be granted because an amendment would be futile.

RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of September, 2025.

**TB** TIFFANY & BOSCO  
PA.

By: s/ Amy D. Sells

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## **CERTIFICATE OF SERVICE**

2 I hereby certify that on September 26, 2025, I electronically transmitted the attached  
3 document to the Clerk's Office using the CM/ECF System for filing and transmittal of  
4 Notice of Electronic Filing to the following CM/ECF registrants:

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